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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/134,799 08/14/98 MIHURA

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LM02/0601

EXAMINER

PSITOS, A

ART UNIT

PAPER NUMBER

2752

DATE MAILED:

06/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/134,799

Applicant(s)

Mihura

Examiner

Psitos

Group Art Unit

2752



☒ Responsive to communication(s) filed on May 15, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-36 is/are pending in the application.

Of the above, claim(s) 2, 4-28, 31-34, and 36 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 3, 29, 30, and 35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

This action is in response to applicant's communication of May 15, 2000.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Applicant's election of Group II (claims 3,29,30 & 35) in Paper No. 3(May 15,2000) is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Although applicant responded to the restriction requirement by arguing that the examiner's position was in error because the claims of group VIII do not have separate utility from the independent claim (similar argument presented with respect to the claims of Group VII, Group IX and *other* Groups) this argument is not considered persuasive since the examiner recognized that independent claim 1 was a linking claim - see MPEP 809 - treatment of linking claim(s). Hence there is NO error and the examiner has concluded that the election is **without** traverse.

The restriction requirement is maintained and made FINAL.

Claims 2,4-28,31-34 and 35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 3.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by either Capps et al, Rossmere et al or Taguchi et al.

Capps et al teaches the claimed invention (**independent claim**) including:

a) chassis for housing electrical components - although not shown, such is inherent in the Capps et al reference - see fig.s 1 & 2 and their description wherein the housing contains at least the input serial port 11 , memory 13 and sound editor 14.

b) at least one audio input & at least one audio output - again, applicant's attention is drawn to fig. 1 and its description where the serial port 11 is the input (audio) and the output is shown as being from element 13 to the speakers 18.

c) nv-ram (non-removable) - memory 13 - computer memory - mag. disc.

d) user interface system - at least keyboard 17 in fig. 1

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e) user interface control system - at least the sound editor 14 and its components.

The examiner interprets the operation of the system disclosed in Capps et al as providing for the appropriate control/selection of the audio input - doing the audio editing - and/or selection of the audio output in response to the users control.

Rossmere et al teaches the claimed invention (**independent claim**) including:

- a) chassis - see fig. 1 - chassis around either elements 84, 86 or 89
- b) at least one audio input & at least one audio output - although not clearly depicted, there is in/out capability for the above mention elements 84,86,89 -
- c) nv-ram (non-removable) - elements 199 - audio disks - 410
- d) user interface system - audio panel 152 - see fig. 3b and its disclosure
- e) user interface control system - at least element 155 & 162

The examiner interprets the operation of the system disclosed in Rossmere et al as providing the appropriate control of the audio input signals for storage onto the audio discs as decided by the user.

Taguchi et al teaches the claimed invention (**independent claim**) including:

- a) chassis - inherent - since the electrical components - depicted in fig. 1 do not exist out in the open but are contained.
- b) audio in and out - see fig. 1 and its disclosure where the examine interprets the input from element 12 and the output to element 42.

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- c) nv-ram (non-removable) see element 40.
- d) user interface system - control panel 50
- e) user interface control system - at least CPU 30

The examiner interprets the system of Taguchi et al as providing for appropriate control for storage of audio information onto the HDD of the system as required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim (s) **3,29 & 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over either Capps et al, Rossmere et al or Taguchi et al further considered with Yoshida et al.

The PRIMARY REFERENCES teach the claimed invention (**independent claim 1**) substantially as claimed as analyzed above.

None of the Primary reference clearly teach the above listed details of the directory with the common characteristics as found in claim 3. However, **Yoshida et al** teaches in an audio system the additional ability of having its nv-ram operable to store a plurality of directories - contents found in the TOC thereof - which as interpreted by the examiner as containing at least

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song titles, (music names) record disc titles - etc. and these are interpreted as the “common characteristics” found in claim 3. Furthermore, Yoshida et al provides for additional ability of accessing whatever title/record/desired by the user using these TOCs. It is also noted that claims 29 and 30 do not call for any of the ‘common characteristics’ limitation. Applicant’s attention is drawn to col. 4 line 11 to col. 14 line 29. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **any of the primary references** with the teachings of **Yoshida et al** motivation being to provide for more versatile recording/duplicating /editing capability by allowing the user to recreate/create his own custom record - The desire to make a copy of an original source of information is well recognized in the audio arts.

5. Claim **35** is rejected under either 35 U.S.C. 102 (b) as being anticipated by or alternatively under 35 U.S.C. 103(a) as being unpatentable over **any of the PRIMARY REFERENCES IN VIEW OF OFFICIAL NOTICE**

The primary references are relied upon for the reasons stated above.

Claim 35 calls for a first mode of operation - continuous recording - since all of the primary references have a record capability - the examiner interprets such as the first mode to provide for continuously store (record) the audio input - Hence the examiner considers this limitation inherently present in the above primary references.

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Alternatively, if applicant can convince the examiner that none of the primary reference provide for this "continuously storing" of the audio information , then the examiner considers such a capability as being well know, and takes official notice of such. In the recording arts, the ability to store (continuously) the incoming information - much like time delay recording well known by those with VCRS (video cassette/ tape recorders)- is set under normal recording conditions - i.e., either select a time and day or just operate the "record"function and continuously storing of the incoming signal (video and audio) is performed. Obviously the ability to selective play back a portion of this stored information is also self evident.

It would have been obvious to one of ordinary skill in the art to take the above well known capability and modify any of the primary references -motivation being to add greater flexibility in the operating system.

Applicant's attention is also drawn to the following documents:

a) Zenda - see fig. 1 - audio in put - mic ; audio output - loudspeaker - audio controller - user interface control system - HDD - nv-ram memory ability - keyboard entry of cpu inherent

b) Bezzant et al - fig. 2 -

c) Jondrow - fig. 6b

d) Howard - fig. S 2 & 3

e) Ishibashi - fig. 6

f) Yamashita - abstract - entire document - ability for a user to select appropriately desired incoming signals for users retrieval as desired.


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- g) Carter et al - housing structure - see fig. S 1 & 7
- h) Yoneyama - video hdd system
- I) Matsumoto & Johnason et al - control systems for audiophiles.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (703) 308-1598.

amp

May 23, 2000


ARISTOTELIS M. PSITOS
PRIMARY EXAMINER
AU 2752